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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/077,152	02/15/2002	Loren R. Pickart	15672-000810US	3529

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EXAMINER

HOWARD, SHARON LEE

ART UNIT PAPER NUMBER

1615

DATE MAILED: 01/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/077,152

Applicant(s)

PICKART, LOREN R.

Examiner

Sharon L. Howard

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-4,7 and 10-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4,7 and 10-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

Examiner acknowledges receipt of declaration and extension of time filed on 7/18/02 and IDS filed on 9/4/02.

Claims 1-12 are pending.

### **DETAILED ACTION**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4,7,10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pickart (U.S. Patent No. 5,382,431).

Pickart teaches methods for preparing compositions for treating damaged skin, thereby allowing the natural healing process to progress, and to increase and stimulate hair growth (see abstract). Pickart teaches the compositions are formed by the complexation of enzymatic protein digests and ionic metals such as tin and copper, namely, a peptone-metal complex. Pickart teaches that the peptone-metal complex is prepared from enzymatic digests of proteins such as digests of soybean protein, collagen, elastin, casein, meat products and silk protein. Pickart teaches that the peptone digests are complexed with ionic metals such as tin (II) and copper (II) (col.5, lines 24-64). Pickart teaches that the peptone-metal complex is prepared by dissolving in warm water, at a concentration of about 5 to 50% (wt./vol.), then mixing with an

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aqueous solution of a metal salt (i.e. copper (II) chloride or tin (II) chloride) at a salt concentration of about 10% to 50% (w/v) (col.5, lines 53-67).

Pickart teaches that the peptone-metal complexes may be administered topically as a cream or as a paste, for a cosmetic use to humans or in veterinary applications to other warm-blooded animals such as canine or bovine (col.6, lines 18-30). Pickart also teaches that it is known in the art to include a carrier in the compositions (col.6, lines 48-66). Pickart teaches that the precipitate contains substantial amounts of peptides, in addition to a small amount of about 1-10% of the metal salt complexed to the peptides.

Although Pickart does not particularly teach stimulating the growth of fingernails, toe nails, and hooves in a mammal, Pickart does teach the same composition, i.e. a peptone-metal complex, consisting of copper (II), tin (II), and peptides such as enzymatic digests of proteins such as soybean protein, elastin, casein, collagen, silk protein and meat products.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the teachings of Pickart, because Pickart teaches the same composition, that is, a peptone-metal complex, which is useful for the purpose of stimulating the healing process of the skin and for stimulating hair growth.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Gumprecht (U.S. Patent No. 4,186,188) teaches polypeptides.

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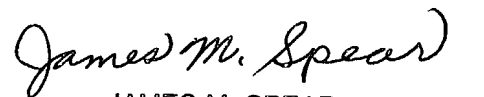
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharon L. Howard whose telephone number is (571) 272-0596. The examiner can normally be reached on 9:00am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman K. Page can be reached on (571) 272-0602. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1234.



Sharon Howard  
January 24, 2004



JAMES M. SPEAR  
PRIMARY EXAMINER  
ART UNIT 1615